



**OPENING COMMENTS  
INTERNATIONAL CONVENTION AGAINST  
ILLICIT TRADE IN TOBACCO  
NEW YORK, 30 JULY 2002**

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Distinguished delegates

Four years ago, the World Health Organization (WHO), the United Nations agency with the global responsibility to direct and coordinate international health work, embarked on a historic journey. The hundred and ninety-one Member States of WHO began preparing the Framework Convention on Tobacco Control (FCTC) with the principal aim of preventing tobacco related diseases and deaths. The process of developing global rules on smuggling, on taxes and on the marketing and promotion of tobacco has taken us to uncharted territory. This is the first time that WHO is developing an international convention. It is also the first time that the health sector is driving a multisectoral process of negotiating and codifying international obligations into a multilateral treaty.

This meeting in New York aims to ensure that the world of health and the world of law enforcement close ranks to deal with a scourge that concerns us all. Its importance cannot be overestimated.

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We represent different disciplines. We bring with us myriad hopes and aspirations. But we are linked in our common concern. I doubt that there is anyone in this room who has not lost a friend or a relative to tobacco. There is something else that links us. Tobacco deaths are as preventable as illicit trade in the product. Tobacco kills one person somewhere in the world every eight seconds. That will add up to over four million deaths this year. And that will sum to over 10 million deaths in just over 20 years. There is nothing inevitable about these deaths. Preventing them is our challenge.

That brings me to what we hope we can achieve here. WHO is very concerned about the pernicious public health effects of tobacco smuggling on national and international tobacco control programmes. Tobacco smuggling undermines national pricing policies, deprives governments of revenues used to combat smoking, permits tobacco companies to subvert and undermine international cooperation in tobacco control and, above all, undermines legal restrictions and health regulations such as those that deal with health warnings and sales to minors.

When WHO started work on the FCTC, Dr Brundtland said "tobacco use is a communicated disease, communicated through advertising, promotion and marketing". Over the years we have learned about the role of smuggling in contributing to smoking initiation, especially among young people. In fact, WHO's

191 Member States have recognized this phenomenon and many are calling for global ad bans and smuggling controls.

The FCTC's vision is that promoting and protecting health is everybody's business. We know that tobacco smuggling does not occur because of the operation of normal market forces and that it is, in fact, partly a supply-driven phenomenon designed to increase market share through fraudulent and illegal evasion of taxes.

At a conservatively estimated average tax of \$1.25 to \$1.50 per cigarette pack, cigarette smuggling, which is estimated to involve 20 billion packs each year, accounts for \$25 to \$30 billion lost annual revenue for governments. WHO has reviewed tax levels worldwide and concluded that in most countries there is considerable room to increase cigarette prices through higher taxes. As has been the case in many countries, these increases would significantly contribute to reduced consumption especially among the young and the poor.

Unfortunately, some governments have reacted to smuggling by reducing taxes. When Canada did that, the results swung swiftly against public health. Youth consumption increased and we know that in one in two cases of new smokers, death from tobacco will follow in time. The United Kingdom took a different approach to the problem of smuggling. Over \$310 million was invested in better border controls. This is expected to yield an extra \$3.6 billion in revenue over three years and assure continued declines in tobacco use.

In addition to health impacts, smuggling undermines national security by feeding criminal activities including money laundering. This meeting's goals are part of an emerging movement to crack down on international crime. This larger movement has been codified by the United Nations Convention Against Transnational Organised Crime, which was adopted at Millennium Meeting in November 2000 and is at present open for signature. In addition, an Ad Hoc Committee on the United Nations Convention against Corruption, which held its second session of negotiations in Vienna last month, is working to elaborate international standards to combat corruption among public officials.

The message is clear. Corruption and its effects on economies are being increasingly identified as unacceptable and appropriate subjects for international regulation.

The size of the problem we face is huge. The players involved in illicit trade are widely alleged to include criminal groups. There is evidence of complicity of tobacco company executives in illicit trade. Over two years ago, the International Consortium of Investigative Journalists and the Centre for Public Integrity published a detailed report to show how senior personnel of tobacco companies, including British American Tobacco and Philip Morris as well as their subsidiaries, sought to control and exploit smuggling as part of a worldwide marketing strategy to increase revenue. The journalists' work was based on searching through more than 11 000 pages of tobacco industry previously secret documents. Their report describes in depth the routes used in Asian and Latin American countries and is extended in scope by a report commissioned by our WHO Eastern Mediterranean office that outlined the

extent and causes of smuggling in some Middle Eastern countries. The authors anticipated that there would be legal cases brought against tobacco companies based on their and other findings. This has happened.

At present, there are several major cases on appeal before USA courts citing tobacco companies as defendants. These include an action brought by the European Community and 10 Member States predicated on the Racketeer Influenced and Corrupt Organisations act (RICO) as well as further actions brought by the Canadian government and separately, Colombian governors and Ecuador. Importantly, the EC case was initially rejected on the basis of statutory interpretation not on the basis of the merits. Their appeal was tabled two weeks ago before the United States Court of Appeals for the Second Circuit and is supported by an amicus curiae tabled by WHO: this is a further demonstration of our commitment to work with those who seek to end illicit trade in tobacco.

In addition, The United Kingdom Department of Trade and Industry is completing an investigation into tobacco company possible involvement in smuggling. Several individuals including some executives of tobacco companies have been found guilty of involvement in illicit trading activities.

WHO's work to protect public health and specifically to effectively control tobacco has required that it go well beyond declaratory resolutions and guidelines to Member States which we have tried over the past few decades. Today, our intergovernmental organizational partners in this struggle include several international organizations participating in the United Nations Ad Hoc Interagency Task Force on

Tobacco Control, including the World Bank, the IMF and the World Customs Organisation (WCO).

At the national level, law enforcement, customs, tax, judicial and foreign affairs agencies have joined the struggle in addition to traditional allies such as ministries of health. Thanks in large part to the work of many of these organizations and agencies, tax and price measures and a phasing out of duty free sales are now an integral part of the solutions being explored by the FCTC process.

Our involvement in tobacco control extends back more than 30 years. The first World Health Assembly resolution on tobacco control was adopted in 1970 and was followed by additional resolutions every few years. These included calls for Member States to take legislative action against tobacco since 1971, and to implement tax and progressive financial measures to discourage tobacco use since 1976. These tax and price measures are seen as part of a broad and comprehensive approach to tobacco control that also includes recommendations to phase out duty-free sales of tobacco. They have been shown to facilitate smuggling in many countries. Importantly, tobacco's share of global tax-free sales has more than halved from 24% in 1983 to 11% in 2000; and if no special action is taken, is expected to reduce further to 7% by 2010. Giving a final push to end tax-free tobacco sales worldwide would immeasurably strengthen the global goal of controlling smuggling.

I said earlier that our FCTC work has taken us to areas hitherto unexplored by public health. Throughout the preparatory phase and the current negotiation phase, the importance of countering smuggling in tobacco has been highlighted. Draft

obligations to eliminate smuggling have most recently been included as a crucial part of the draft treaty text released just two weeks ago. The New Chair's Text, prepared by Ambassador Seixas Correa and tabled on 16 July, represents a consolidation of the diverse negotiating positions that have emerged over the past two years.

Combating smuggling through the Framework Convention process has been a predominant concern of Member States since the initiation of negotiations almost two years ago. Consistent with Member States' widely expressed goal of effectively combating smuggling through the FCTC, the New Chair's Text proposes that measures to curb smuggling be included as a critical component of a broad based approach to tobacco control.

We are aware of the need for broad, concerted and complementary action to combat this evil. Our colleagues at the World Bank and the World Customs Organization (WCO) work closely with WHO in this regard. For many years, the World Bank has highlighted the importance of addressing smuggling - a theme I am sure my colleague, Dr Joy de Beyer, will elaborate on later today.

We also welcome the participation of the World Customs Organization. Our joint goal of effectively curbing smuggling in tobacco products through the Framework Convention process has led to the rapid conclusion of a Memorandum of Understanding just 10 days ago.

Tobacco smuggling is a complex and multidimensional global scourge. Effectively combating global tobacco smuggling necessitates the comprehensive and multisectoral approach that can be provided through the FCTC process.

Enhanced collaboration between customs organizations is a crucial component of combating tobacco smuggling. During the course of the FCTC negotiations, Member State delegations have identified a variety of potential global commitments highly significant to combating tobacco smuggling that extend beyond the traditional jurisdiction of customs organizations such as enhanced criminal penalties for tobacco smugglers and mutual legal assistance, including extradition. Member States participating in the FCTC have also stressed the critical importance of the codification of binding measures to enhance the traceability of tobacco products, including obligations related to tobacco product labelling and packaging as well as licensing.

Many national customs and excise initiatives aimed at broader reform that are underway will be helpful for this meeting to consider. One example is the work of Her Majesty's Customs and Excise Office in the United Kingdom. Among their recommendations for reform, one has particular relevance for our work. This involves use of a unique consignment reference number to provide end to end auditability of all consignments: including tobacco. United Kingdom customs has recently signed a Memorandum of Understanding (MOU) with one UK tobacco company. Under the agreement, the company can only supply products where there is a legitimate demand for the product in the intended final market.



Further, we need to be open to private sector innovations to control smuggling. The Global Commerce Initiative that includes many major food, spirits and retail multinationals, is moving from bar coding to digital product coding in an effort to implement more intelligent tagging of products from production to consumption.

A stronger partnership between law enforcement officers and custom and excise officials on the one hand, and public health officials on the other could yield significant and rapid gains for the health of populations. In recent years we have witnessed major successes by the EU anti-fraud unit acting decisively with national authorities to reduce smuggling from Andorra and into Spain for example. And this is only a start. Meetings such as this one can only help us to appreciate the problem we all confront in all its dimensions.

On behalf of the World Health Organization and of our Director-General, Dr Gro Harlem Brundtland, I warmly welcome you all to this meeting. We commend the government of the United States of America for having taken this initiative that, we believe, will make a very significant contribution to our collective mission and work on the FCTC.

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